App. F. IX-4

1928.

File No. 63-28

Previous References (Law)

Serial Nos. 1–7..

Later References

8(9)

General and Revenue Secretariat.

Serial Nos. 162 (Two)

Part B for December 1928

SUBJECT

Forwarding Deputy Commissioners application for leave to send in execution of decrees for the realization of Land Revenue through the Collectors of respective Districts

GENERAL AND REVENUE SECRETARIAT.

( )

NOTES.

File No. 63

FILE HEADING.

Forwarding Deputy Com's to apply for leave to bid in execution of decree for the recovery of institution fee, due to court through the auction of respective values

FROM

D.C Mysore

No. P. 1.15/70-71 Dated 20 11 78 Received 22 11 78

Diary No. 2178	Enclos.	Spare copies	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards opinion of P.P.s in the matter & requesting a general diren from the Govt to D.C.s to apply for leave to bid through the auctioneers

NOTES AND ORDERS.

Under order 33 rules 10, 11 it is the Govt that becomes the decreeholder in all cases of recovery of institution fees. Rule 14 requires the ~~order~~ decree to be forwarded to the ~~Deputy~~ Com^r who is the officer to take action by instituting execn proceedings. ~~The~~ Formally the

Revenue and Revenue Secretariat. File No. 63 of 1928.

Serial No.

is the D.C that files the exn addl [illegible] to be does so on behalf of Govt — the decree holder. Order 21 rule 11 cl (2) requires the addl to be signed by the decree holder or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case. Order 21 rule 72 prohibits a decree from bidding or purchasing property sold in exn except with the express permission of the Court. Clause (3) of this rule indicates that the decree holder can purchase by himself or through another.

2) It is therefore clear that as the rules stand, the D.C can apply for permission to bid & purchase the property on behalf of Govt: through the amildar. No special sanction of Govt seems to be necessary in the case

DMP
23/11/28

3) [illegible] Rep
29.11

Draft put up
DMP
1/12/28 (L.R.)

3/12

5) app
3/12

Note—Contn. Sheet.

2175

App. F. III—2

General and Revenue Secretariat. File No. 6 3 of 1926

Serial No.	
2	To the Dy Comr Mysore No P 3049 dt 6-12-28 States that when the provisions of the Code of Civil Procedure the Dy Court can apply for permission to bid and purchase the properties on behalf of Govt through the Auditor no Govt general direction seems necessary.

P.
MP
7/12/28

NOTE—Contn. Sheet.

WD 01714—GPB—30,000—18-4-28

No. P.I. 15/20-21.
Encls. 2

Office of the Deputy Commissioner,
Mysore District,

Dated, Mysore,....20th November 28.

From

A. V. Ramanathan, Esq., B.A.,
Deputy Commissioner,
Mysore District.

To

B. Nagappa, Esq., Bar-at-Law.,
Secretary to the Government of Mysore,
Law Department, B a n g a l o r e.

Sir,

I have the honour to forward herewith copy of letter No. P. I. 15/20-21 dated ~~30th November~~ 1928 addressed to the Commissioner of Stamps in Mysore and copy of letter No. 263/28-29 dated 14/17th October 1928 received from the Public Prosecutor, Mysore, for kind perusal.

I have the honour to request that Government may kindly be moved to give a general direction to the Deputy Commissioner on whose behalf the decree is executed, to file applications for leave to bid in cases of the kind and purchase the property on behalf of Government through the Amildars of the Taluks wherein the properties are situated, as suggested by the Public Prosecutor.

I have the honour to be,
Sir,
Your most obedient servant,

For Deputy Commissioner,
Mysore District.

(ABSENT FROM HEAD QUARTERS).

NRS

No. P.I. 15/20-21.
Encl. 1.

Office of the Deputy Commissioner,
Mysore District,

Dated, Mysore, 20th November 1928.

From

A. V. Ramanathan, Esq., B.A.,
Deputy Commissioner,
Mysore District.

To

The Commissioner of Stamps
in Mysore, B a n g a l o r e .

Sir,

With reference to your letter No. C.R. 43/27-29 requiring to intimate as to how the Amildar was allowed to bid in the auction in the case and the exact provision of the law or rule which requires to be amended or changed, I have the honour to enclose herein copy of letter No. 263/28-29 dated 17-10-28 received from the Public Prosecutor, for kind perusal. As suggested by the Public Prosecutor, I have the honour to request that Government may be kindly moved to give a general direction to the Deputy Commissioner on whose behalf the decree is executed, to file applications for leave to bid in cases of the kind, and to purchase the property on behalf of Government through the Amildars of the Taluks wherein the properties are situated.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/- P. H. KRISHNA RAO,
For Deputy Commissioner,
Mysore District.

NRS

" C o p y "

For Deputy Commissioner,
Mysore District.

Letter No. 263/28-29 dated 14/17th October 1928 from the Public Prosecutor and Government Pleader, Mysore to the Deputy Commissioner, Mysore District.

In reply to your Office Memo No. P.I. 15/20-21 dated 24-9-28 forwarding to me copy of the letter from the Commissioner of Stamps, Bangalore and requesting me to intimate my opinion as to the provision of Law or Rule which requires to be amended or changed so as to enable the Amildars to bid in the court sales on behalf of Deputy Commissioner, I have the honour to state as follows:-

The P.I.No. that is referred to relates to the execution case No. 903/24-25 (Deputy Commissioner, Mysore VS. B.Venkataramiah, Narayana and Parvathamma) filed for recovery of institution fees due to Government in O.S.No. 569/18-19 on the file of II Munsiff's Court, Mysore. In this case, since the sale of immovable property that was ordered from time to time did not take place for want of bidders, a communication was addressed to you requesting you to let me know as to whether you intend purchasing the property on behalf of Government for the amount due from the Judgment debtors. As per your reply dated 20-10-27 an application for leave to bid was filed, seeking court's permission for the purchase of the property by the Amildar of T. Narasipur Taluk, on your behalf. The application was granted and accordingly the Amildar of T. Narasipur Taluk, purchased the property on behalf of Government on 13-12-27. A sale certificate was obtained and forwarded to you, which was sent back to me with a request to take action for obtaining possession of the property. In compliance with this, an application for delivery was filed in court and delivery is ordered to be made by 6-12-28.

As regards your enquiry as to the Law or Rule which requires to be amended, I wish to state that there is no need for any rule or law to be amended, for enabling the decree holder in execution cases to purchase the property in satisfaction of the decretal amount, since there is a provision made for it in order 21 Rule 72 Civil Procedure Code. All that need be done is, I think, for Government, who is the decree-holder in decree

passed

passed in pauper suits, to avail themselves of order 21 rule 72 of ~~the~~ Civil Procedure Code in cases where the amount due to Government cannot be recovered by any other means. In the event of the properties ordered to be sold in such execution cases being purchased by private bidders, there will be no necessity for Government to act under order 21 Rule 72, since the purchase money paid by the auction purchaser will be paid to Government in satisfaction of the decree. It is only in cases where the properties are not purchased by private persons owing to combination, league, etc., and where on that account, the sale ordered by court repeatedly, proves infructuous, that Government may apply under Order 21 Rule 72.

If in order to do this, the sanction of Government is deemed necessary, Government may be moved to give a general direction to the Deputy Commissioner, on whose behalf the decree is executed, to file applications for leave to bid in cases of the kind mentioned above, and to purchase the property on behalf of Government through the Amildar of Amildars of the Taluks wherein the properties are situated.

"C o p y"

For Deputy Commissioner,
Mysore District.

Appendix F (4—1

Subject.....

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Section Lo a

File No. 23-29

Serial No. 2

No. 13049

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the 32

To

The Deputy Commissioner

Mysore

Date of issue 6/12/28

Signed by W Rs

Sir,

With reference to your memo No. P. I. 15/20-4 dated 20th Nov 1928 regarding application for leave to bid in execution cases for recovery of court fees due to Govt in pauper suits, I have the honour to state that since under the provisions of the Code of Civil Procedure the Deputy Commissioners in such cases can apply for permi-

st of enclosures.....

Copied by.....

Examined by.....

over

to bid and purchase the
Property on behalf of Government
through the auctioneer, the usual
~~Special~~ funeral directions
as is mentioned in your letter
under reply, seems necessary

Thanking

Yours Faithfully
for Legal Adviser

DRP
1/12/28